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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,919	01/10/2004	Syde A. Taheri	1577-42	8233

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EXAMINER

WEBB, SARAH K

ART UNIT PAPER NUMBER

3731

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

<b>Office Action Summary</b>	Application No. 10/754,919	Applicant(s) TAHERI, SYDE A.	
	Examiner Sarah K. Webb	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.  
     4a) Of the above claim(s) 8-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 20-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments, see pages 7-18, filed 6/12/06, with respect to the rejection(s) of the claim(s) under Hyodoh have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of DiMatteo et al.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4,20-23,27-29,31,33-37, and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,440,164 to DiMatteo et al.

DiMatteo discloses a device that includes a stent body defining a lumen and a blocking means located at various positions along the length of the stent body. In the embodiment of Figure 1, the blocking means (18) is disposed at one end of the stent body (16). In the embodiment of Figures 18-20, the blocking means (40) is located between the ends of the stent body. The one-way valve, or blocking means, functions to move between an open configuration (Figures 15, 13B, 20) where blood flows through the lumen of the stent body and a closed configuration (Figures 1,14, 13A, 19) that blocks blood flow (see esp. column 6, lines 49-67). DiMatteo explains that blood flow is substantially blocked in the closed configuration, due to an impermeable membrane (column 7, lines 19-22). The entire device can be formed of bioabsorbable

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material so that the device is eventually completely replaced by tissue (column 2, line 67-column 3, line 5; column 10, lines 46-49).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5,24,30, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiMatteo in view of US Patent No. 5,489,297 to Duran.

DiMatteo fails to specify that the bioabsorbable material for forming the device is polylactic acid. Duran discloses another stent-valve with a bioabsorbable frame. Duran teaches that polylactic acid is a good material for forming a bioabsorbable structure because it has a predictable rate of disappearance (column 11, lines 53-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the bioabsorbable stent body of DiMatteo with PLA, as taught by Duran, because this substance has a predictable rate of absorption.

4. Claims 6,7,25,26,32, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiMatteo in view of USPAP Pub. No.2002/0143387 (Soetikno et al.).

DiMatteo fails to include a drawstring at one of the device. Similar to the embodiment in Figures 18-20 of DiMatteo, Soetikno discloses another elongated tubular stent. Soetikno teaches that a drawstring (15) should be located at one end of a stent body so that the device can be repositioned during deployment without trauma to the surrounding tissue in the case that the initial placement of the device is

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incorrect (paragraph 10). Soetikno teaches that the drawstring can be incorporated into any conventional stent (paragraph 25), including stent covered with graft material (paragraph 3). Therefore, Soetikno can be properly combined with the device disclosed by DiMatteo. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a drawstring at the end of the DiMatteo device, as taught by Soetikno, in order to provide a means for the device to be repositioned during deployment while avoiding trauma to the vessel.

Though Soetikno fails to explicitly state that the drawstring serves to block blood flow, this structure is inherently capable of performing this function. The drawstring is capable of being pulled tight enough to block blood flow, since the modified device includes an impervious layer over the stent frame.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K. Webb whose telephone number is (571) 272-4706. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SKW

8/18/06

*Julian W. Woo*

JULIAN W. WOO  
PRIMARY EXAMINER